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LETTER DATED 8 FEBRUARY 2000 FROM THE CHARGÉ D'AFFAIRES A.I. OF THE PERMANENT MISSION OF YUGOSLAVIA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to forward herewith a memorandum on the facts testifying that the Prevlaka Peninsula is an integral part of the Federal Republic of Yugoslavia (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Vladislav JOVANOVIC
Chargé d'affaires a.i.

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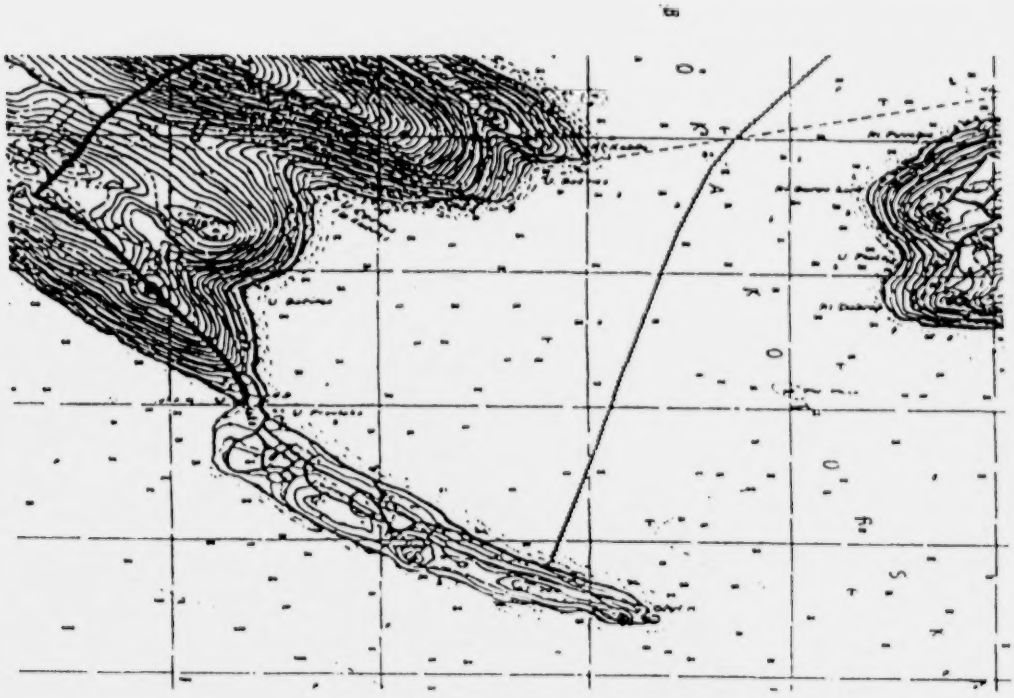
Annex

PREVLAKA - PART OF THE TERRITORY OF THE FEDERAL REPUBLIC OF YUGOSLAVIA

- F A C T S -



New York, July 1999

1. Prevlaka is an integral part of Boka Kotorska Bay, an inalienable part of the territory of the Federal Republic of Yugoslavia

Location of the area of Prevlaka in the Federal Republic of Yugoslavia

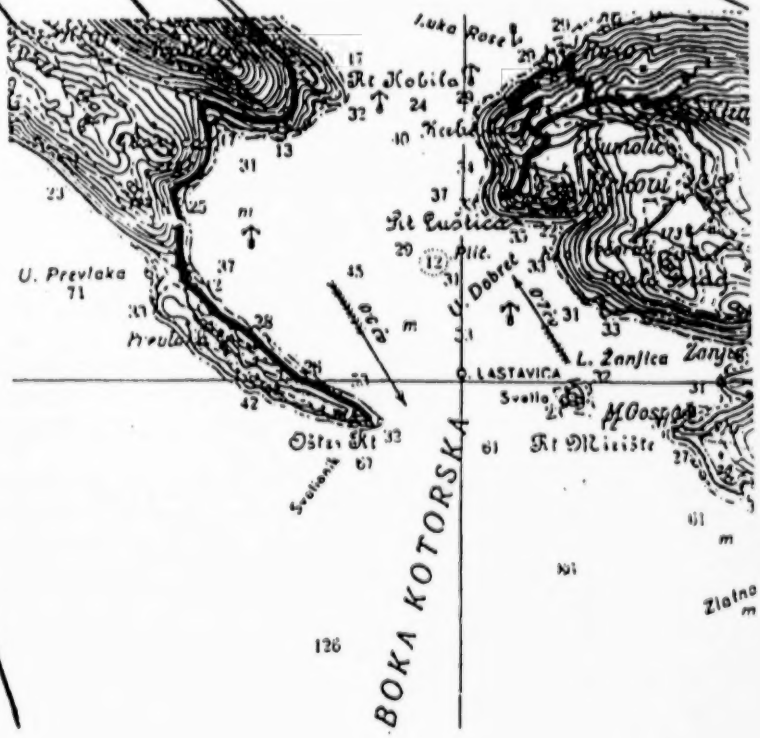
2. The secession of the Socialist Republic of Croatia from the Socialist Federal Republic of Yugoslavia created an artificial territorial dispute between the Federal Republic of Yugoslavia and the Republic of Croatia on an accurate definition of the extension of the border line in the region of the Prevlaka Peninsula.

3. Prevlaka is a colloquial name of the small (99.8 ha), uninhabited, stony and hard-to-access peninsula of Ostri which makes up the beginning of Boka Kotorska Bay. Geographically, ecologically, historically and geo-strategically, Prevlaka is an integral part of Boka Kotorska Bay. There is also an isthmus called Prevlaka which connects the peninsula with the depth of the land mass of the Federal Republic of Yugoslavia.

Location of the area of Prevlaka in Boka Kotorska Bay

Road Herceg Novi - Cape Ostri

Location of Prevlaka making up the beginning of Boka Kotorska Bay



4. Following the armed secession of the Socialist Republic of Croatia from the hitherto common State of the Socialist Federal Republic of Yugoslavia, Lord Carrington, Chairman of the Hague Conference on Yugoslavia delegated on 20 November 1991 the question of the borders to Robert Badinter, Chairman of the Arbitration Commission.

The Arbitration Commission made its Opinion No.3. known on 11 January 1992, presenting three principles for border settlements between the former Republics of the Socialist Federal Republic of Yugoslavia: first, all external borders must be respected; second, the borders between [...] other neighbouring States cannot be changed except through a freely reached agreement; third, unless agreed otherwise, former borders shall become the borders protected by international law; fourth, the borders changed by force have no legal value.

Opinion No. 3 of the Arbitration Commission excludes the period before 1918 altogether, i.e before the Paris Peace Conference, so that the direct or indirect claim of the Croatian side to the State and legal continuity of Austria-Hungary, i.e. the Dubrovnik Republic, is irrelevant.

Following this Opinion of the Arbitration Commission the United Nations noted in a number of Security Council resolutions and reports of the Secretary-General that there exists a disputed issue of Prevlaka between the Federal Republic of Yugoslavia and the Republic of Croatia to be solved by the two sides peacefully and through mutual agreements.

The existence of the dispute between the Federal Republic of Yugoslavia and the Republic of Croatia has been verified also by the Security Council which, based on the will of both sides, deployed United Nations military observers in the disputed area of Prevlaka in October 1992 (SCR 779). Also, based on the will of both sides, the United Nations mandate on Prevlaka has been extended for 6.5 years. The disputed issue of Prevlaka has been treated by the United Nations as very important (a number of SCRs proceed from Chapter VII of the Charter of the United Nations) and the Security Council has adopted 10 resolutions on the issue so far, while the Secretary-General considered it in 18 reports.

Although there were indications during 1996 (SCR 1038 of 15 January 1996 and the report of the Secretary-General of 11 March 1996) that another international organization might take the task of monitoring the demilitarization of the Prevlaka Peninsula, the Federal

Republic of Yugoslavia called in all its talks with United Nations representatives for an exclusive presence of the United Nations during the negotiations of the disputed issue, while the Republic of Croatia favoured an OSCE presence. The Yugoslav side always pointed to the importance of the presence of United Nations monitors and their contribution to the safeguarding of peace and stability in the area of Prevlaka, as well as to their contribution to the creation of necessary conditions and the maintenance of an atmosphere in which negotiations between the two sides on solving the disputed issue of Prevlaka could take place in a peaceful way. The Federal Republic of Yugoslavia continues to believe that the presence of the United Nations Mission of Observers on Prevlaka (UNMOP) is important and necessary pending a final settlement of the problem of Prevlaka. It calls for a consistent implementation of the UNMOP mandate as established by United Nations documents in order to avoid that the final settlement of this disputed issue be pre-emptied.

5. The existence of the dispute in the area of Prevlaka was confirmed also by the Federal Republic of Yugoslavia and the Republic of Croatia in the Agreement on Normalization of Relations on 23 August 1996 in which it is said that "the Contracting Parties are agreed to solve the disputed issue of Prevlaka through mutual negotiations" (Art. 4). The Agreement goes on to say that "Until mutual agreement on Prevlaka is reached, the Contracting Parties are agreed to respect the existing security regime established through United Nations monitoring." (Art. 4).

The Federal Republic of Yugoslavia respects the independence, sovereignty and territorial integrity of the Republic of Croatia within its internationally recognized borders, but points out at the same time that there exists a territorial dispute between the Federal Republic of Yugoslavia and the Republic of Croatia as to where the line of the inter-State border in the area of Prevlaka extends. The Republic of Croatia also has other territorial disputes with other former Yugoslav Republics as, for instance, with Bosnia and Herzegovina and the Republic of Slovenia (at a number of locations), but those disputes have not been characterized as territorial claims.

6. The territorial claims of the Republic of Croatia against the Federal Republic of Yugoslavia, vis-a-vis Prevlaka, are based on historical forgeries and an unreliable and irrelevant argumentation, as well as on the propaganda effect it created by a persistent and years-long contention that that part of the territory of the Federal Republic of Yugoslavia belongs to it. In

order to convince those who are not familiar with the facts of the rectitude of its position, the Republic of Croatia has, contrary to those facts, accused the Federal Republic of Yugoslavia of entertaining territorial claims, seeking all along to reduce the territorial dispute that it itself created artificially by its territorial claims to a security issue in the region of Dubrovnik and Boka Kotorska Bay. In that way the Republic of Croatia has sought to conceal its real position and at the same time to present itself as a flexible and cooperative partner. Thus a situation has been created of presenting Prevlaka as a disputed issue in international institutions.

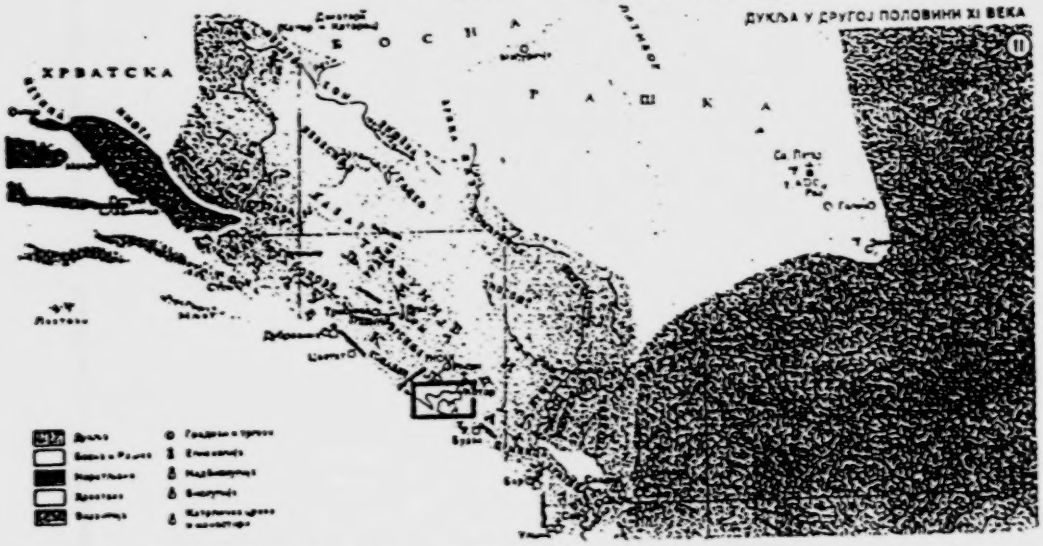
7. The fact is that never in its history has Croatia ruled over the Prevlaka Peninsula and Boka Kotorska of which it is an integral part.

The southernmost point on the Adriatic coast of the medieval Croatian State (which ceased to exist in 1102) was located between Split and Omis.

The area of the Adriatic coast south of Omis was settled by Serbian tribes at the time of the Byzantine Emperor Iraclius (610-641 AD) who formed their first medieval districts/States in the area: Pagania, Zahumlje, Travunia, Duclea (Zeta). In the IX and X centuries the territory of the Principality of Travunia stretched to the east from Dubrovnik to Boka Kotorska and included Prevlaka with Cape Ostri.

Prevlaka as part of the Serbian Principality of Travunia, IX and X centuries.

From 1038 until 1077, Boka Kotorska with Prevlaka was part of the Principality and from 1077 until 1183 of the Kingdom of Duclea (Zeta).



Prevlaka as part of the Serbian Kingdom of Duclea in the second part of the XI century

From 1183 until 1371, Boka Kotorska with Prevlaka as its integral part was part of the Serbian medieval State of the Nemanjic dynasty (Principality; Kingdom since 1217 and an Empire since 1346).

The weakening of the Serbian Empire and the ascendance of the authority of local Serbian nobility accounted for the fact that from 1360 Prevlaka as part of Boka Kotorska was ruled by the local vasals of the Vojinovices, Altomanoves and the Balsices. From 1377 the area belonged to the Serbian medieval Bosnian State (Kingdom of Bosnia).

In 1420 the entire region of Boka Kotorska fell under the Republic of Venice which ruled it until the Peace Treaty of Campoformio 1797.

From 1797 until 1807 Prevlaka was ruled by Austria.

From the Peace Treaty of Tilsit in 1807 until 1813 Prevlaka was part of the Illyrian Provinces under French rule.

Meanwhile, in war circumstances, Prevlaka was ruled for a short while by Russia and England (1813) and Montenegro (from the decision of the Assembly in Dobrota on the unification of Montenegro and Boka of 12 November 1814 till the decision of the Congress of Vienna in 1815 when Boka Kotorska was given to Austria).

From 1815 until 1918 Prevlaka was part of Austria (Austria-Hungary from 1867).

From 1918 until 1941 the Prevlaka Peninsula with Cape Ostri was part of the territory of the Kingdom of Serbs, Croats and Slovenes (1918-1929), i.e the Kingdom of Yugoslavia (1929-1941). According to administrative divisions of the Kingdom in the period, Prevlaka, as an integral part of Boka Kotorska was part of the Zeta District (1922-1929) and the Banovina of Zeta (1929-1939).

Prevlaka in the Banovina of Zeta 1931
(in the Map of the Kingdom of Yugoslavia -
made in Zagreb and printed in Vienna 1931,
currently in the Archives of Neuchatel, Switzerland)

Following the creation of the Banovina of Croatia (26 August 1939), the establishment of its administrative border in the area of Prevlaka was left for a subsequent re-arrangement of the country which never took place. The Agreement itself from which the Banovina of Croatia emerged was never verified in the Assembly of the Kingdom of Yugoslavia.

During World War Two Prevlaka was illegally ruled by fascist Italy from April 1941 to September 1943 and from September 1943 to November 1944 by Nazi Germany.

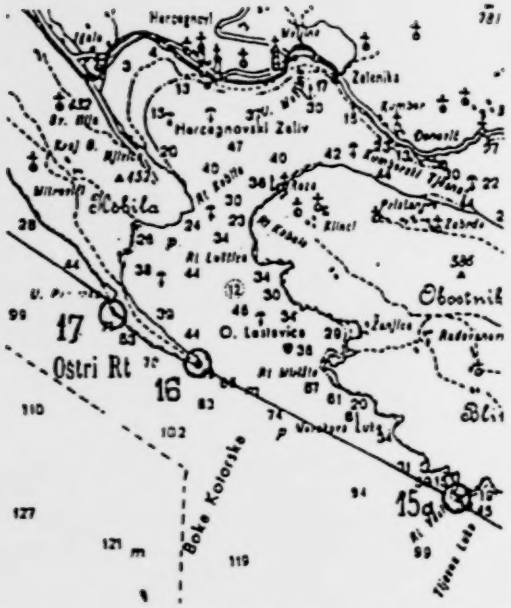
Following the military defeat of the Third Reich, Prevlaka was part of Yugoslavia and its constituent Republic of Montenegro in the period from 1945 until 1991.

Following the armed secession of the Socialist Republic of Croatia from the Socialist Federal Republic of Yugoslavia, Prevlaka remained as part of the entirety of Boka Kotorska in Montenegro, i.e. the Federal Republic of Yugoslavia.

8. There exist legal acts of the common State of the Socialist Federal Republic of Yugoslavia adopted at the federal level on the basis of which it is evident that, at the time of the secession of the Socialist Republic of Croatia and the adoption of the Opinion of the Arbitrary Commission of Robert Badinter, the Prevlaka Peninsula was part of the Socialist Republic of Montenegro which today is one of the constituent republics of Yugoslavia. Thus, with all its appurtenant installations and communications connecting it to the Montenegrin hinterland, the Prevlaka Peninsula has the status of an integral part of the Federal Republic of Yugoslavia. This is proved by the following facts:

a) The Law on the Coastal Sea of the Federal People's Republic of Yugoslavia which entered into force on 8 December 1948, Article 3. of which says that the internal maritime waters of the Federal People's Republic of Yugoslavia encompass also 'Boka Kotorska from the Connection Cape Vesla - Cape Ostri' whereby it is clearly defined what is considered Boka Kotorska, i.e. that Prevlaka is its integral part.

Furthermore, Article 4. of the same Law says: 'All regulations of the Federal People's Republic of Yugoslavia shall be valid and applied in the internal maritime waters shelf.' These regulations of the Federal People's Republic of Yugoslavia are relevant also for the determination of the direction of the extension of the administrative border between the People's Republic of Croatia and People's Republic of Montenegro.



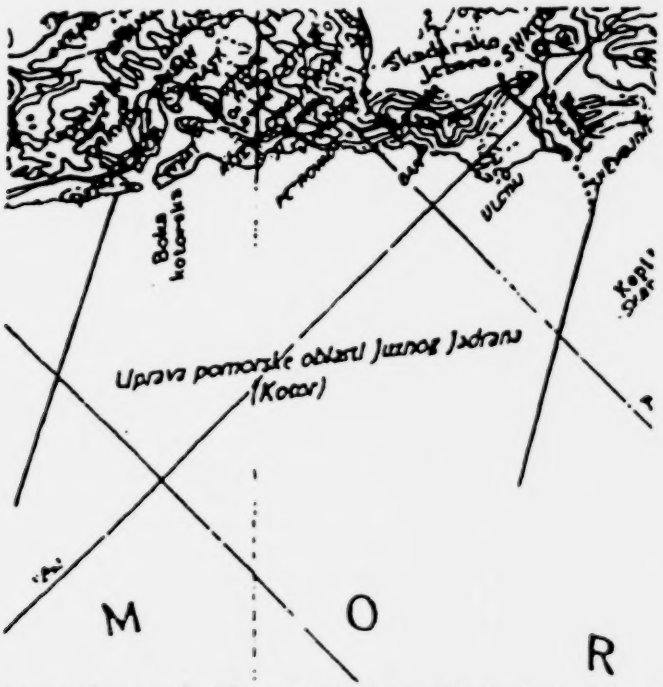
Boka Kotorska Bay begins from the
Connection Cape Vesla (15a) - Cape Ostri (16)

b) Proposal of the Ministry of Seafaring of the Federal People's Republic of Yugoslavia for setting up maritime districts, confidential number 3318 of 7 December 1951, to the Legislative Council for Building People's Government of the Government of the Federal People's Republic of Yugoslavia to the effect of creating three maritime districts. In it it is said, among others, set that the Third Maritime District will encompass 'the Southern part of the Adriatic i.e. the coastal area of the People's Republic of Montenegro.' (The Document is in the Archives of Yugoslavia in Belgrade, call number AJ, 50, F-84, pages 730-732).

Administration of the Maritime Districts
Northern Adriatic (Rijeka), Mid-Adriatic (Split),
Southern Adriatic (Kotor)

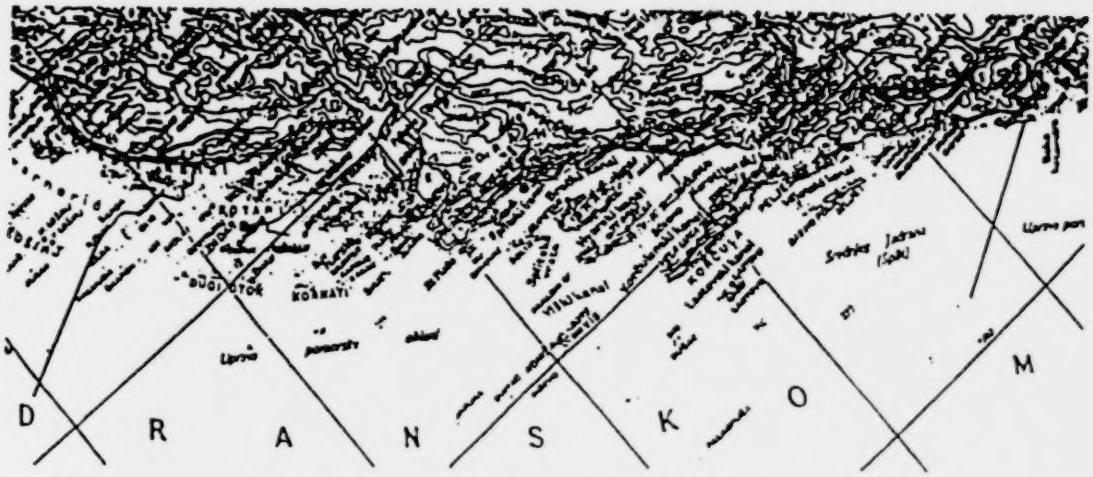
/...

c) Decree on setting up the administration of the Maritime Districts, adopted by the Government of the Federal People's Republic of Yugoslavia on the basis of the said proposal which entered into force on 1 January 1952,, Article 1. of which, inter alia says that the headquarters of the Administration of the Maritime District of the Southern Adriatic is in the city of Kotor. (The Decree is kept under call number AJ, 50, F-11, pages 147 and 148, published in Official Gazette of the Federal People's Republic of Yugoslavia No. 1 of 1 January 1952, pages 9 and 10)



Administration of the Maritime District of the Southern Adriatic (Kotor)

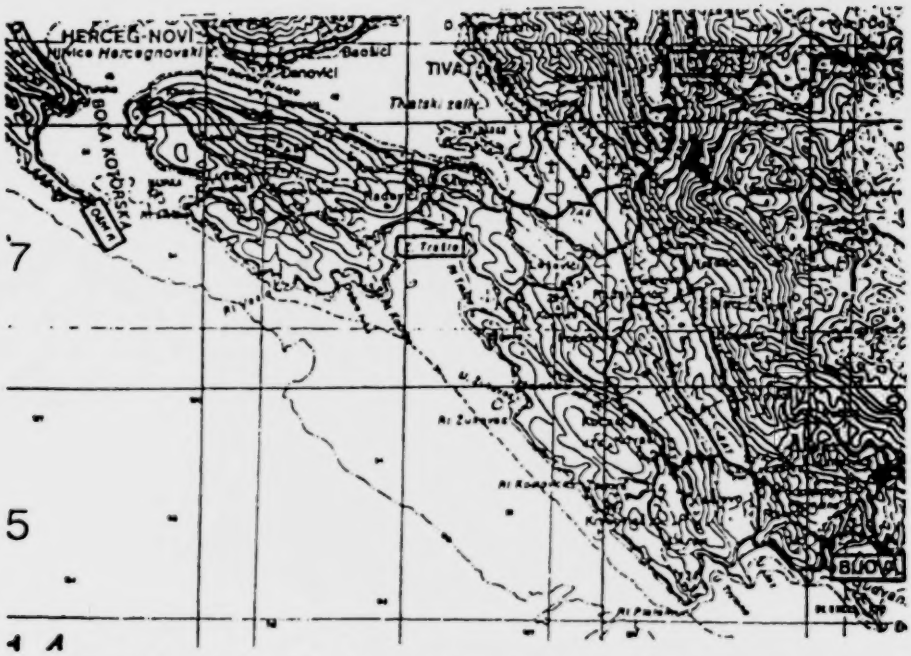
d) Decision on the Territorial Administration of the Maritime Districts taken by the Minister of Seafaring of the Federal People's Republic of Yugoslavia on the basis of the preceding Decree in which under 2) it is said that 'the territorial administration of the Maritime District of the mid-Adriatic, headquartered in Split, encompasses the area of the coast, islands and territorial sea stretching within the border which goes... to the Cove of Prevlaka northwest from the lighthouse of Ostri Cape.'



Administration of the Maritime District
of the Mid-Adriatic (Split)

The Decision under 3) says: 'The Territorial Administration of the Maritime District of the Southern Adriatic, headquartered in Kotor encompasses the area of the coast and the territorial sea of the Federal People's Republic of Yugoslavia stretching within the border which goes to the Cove of Prevlaka, including the Prevlaka Peninsula, the coast and the territorial waters all the way to the mouth of the Bojana River...'. 'The decision was entered under number 1724 and published in Official Gazette of the Federal People's Republic of Yugoslavia No. 28 of 21 May 1952, page 546 whereby it entered into force).

e) On the basis of the said acts the competent authorities of the Republic of Montenegro exercised effective authority in the Maritime District of the Southern Adriatic which also encompassed Prevlaka which was also confirmed by the request to build a harbour in the Cove of Bigovo - the Bay of Traste (10 km northwest from Budva) submitted by the District People's Committee of Kotor, confidential number 34 of 1952 to the Ministry of Seafaring of the Federal People's Republic of Yugoslavia. In the explanation of the request it is, inter alia said: 'The Bay of Traste - the Cove of Bigovo, serves as a protection harbour also to smaller vessels in case of bad weather since no other shelter exists in the area from Cape Ostri to Budva. The Port Director's Office of Kotor is also agreed to this. This is kept in the Archives of Yugoslavia, call No. AJ, 552, F-551, confidential No. 280.



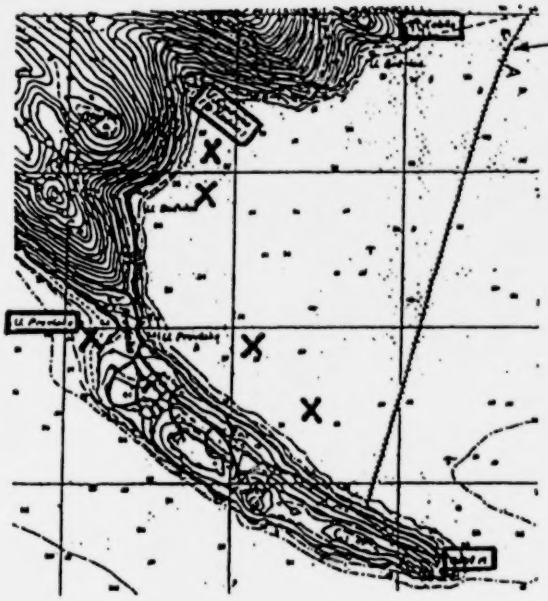
Confirmation of the authority of the organs of the Republic of Montenegro over Cape Ostri

9. In addition to the legal acts of the federal State, the laws of the Socialist Republic of Montenegro and the Socialist Republic of Croatia also indicate that Prevlaka is an integral part of Boka Kotorska, i.e. of the Federal Republic of Yugoslavia. The laws of the Republic of Montenegro from the time when it was a constituent republic of the Socialist Federal Republic of Yugoslavia define Prevlaka as part of Boka Kotorska, i.e. of the Republic of Montenegro. The laws of the Republic of Croatia from the time when it was a constituent Republic of the Socialist Federal Republic of Yugoslavia never defined Prevlaka, a part of Boka Kotorska, as a constituent part of the Republic of Croatia. For example:

a) Article 2. of the Law on Maritime Fisheries of the Socialist Republic of Montenegro says: 'The fishery zone of the Socialist Republic of Montenegro [...] encompasses the part of the coastal sea and the continental shelf of the Socialist Federal Republic of Yugoslavia located within the borders of the Socialist Republic of Montenegro'. Article 4. of that Law says: 'It is forbidden to fish with a dragnet (trawl)in the coastal shelf up to one nautical mile from the coast in Boka Kotorska Bay.' (The Law was published in Official Gazette of Montenegro No. 10/79 of 3 April 1979).

The northwestern part of the border of the fishery zone of the Socialist Republic of Montenegro, including the Prevlaka Peninsula

b) On the basis of that Law the competent authorities of the Republic of Montenegro exercised jurisdiction in entire Boka Kotorska Bay, including the territorial sea around Prevlaka. This is also born out by procedures against offences committed on the sea in the Cove of Klacina in the area within the line Cape Ostri (on Prevlaka) - Cave Kobila and in the external Cove of Prevlaka. The offences committed in these locations were dealt with by the competent municipal courts in Montenegro.



Location of offences committed at sea
dealt with by the competent authorities of the
Socialist Republic of Montenegro

c) The Law on Maritime Fisheries of the Socialist Republic of Croatia as a federal unit of the Socialist Federal Republic of Yugoslavia regulates fisheries in the coastal sea within the borders of the Socialist Republic of Croatia and makes no mention at all of any locality in the part of Boka Kotorska, nor was jurisdiction carried out on its basis in any part of Boka Kotorska, including Prevlaka. (The Law was published in People's Gazette of the Socialist Republic of Croatia No. 64/1980 of 4 November 1980).

d) Article 1 of the Law on Maritime and Internal Navigation of the Socialist Republic of Montenegro says: "The Law regulates the questions from the field of navigation at sea and in the internal waters of the Socialist Federal Republic of Yugoslavia within the borders of the Socialist Republic of Montenegro (...) relative to the safety of navigation, navigation routes, navigation vessels, including their crews, ports and harbours, transport at sea and in the internal waters and to the monitoring of the application of the Law and other regulations from the field of sea and internal navigations." (Official Gazette of the Socialist Republic of Montenegro No. 19/1978).

Accordingly, the Socialist Republic of Montenegro defined its borders also by this Law.

Article 60(a) of the Law on the Amendments of the Law on Maritime and Internal Navigation provides for pilotage at sea (Official Gazette of the Socialist Republic of Montenegro No. 19/1987). Article 60(b) provides for the pilotage of vessels in Boka Kotorska Bay. This Law also shows that Boka Kotorska Bay is inside the borders of the Socialist Republic of Montenegro.

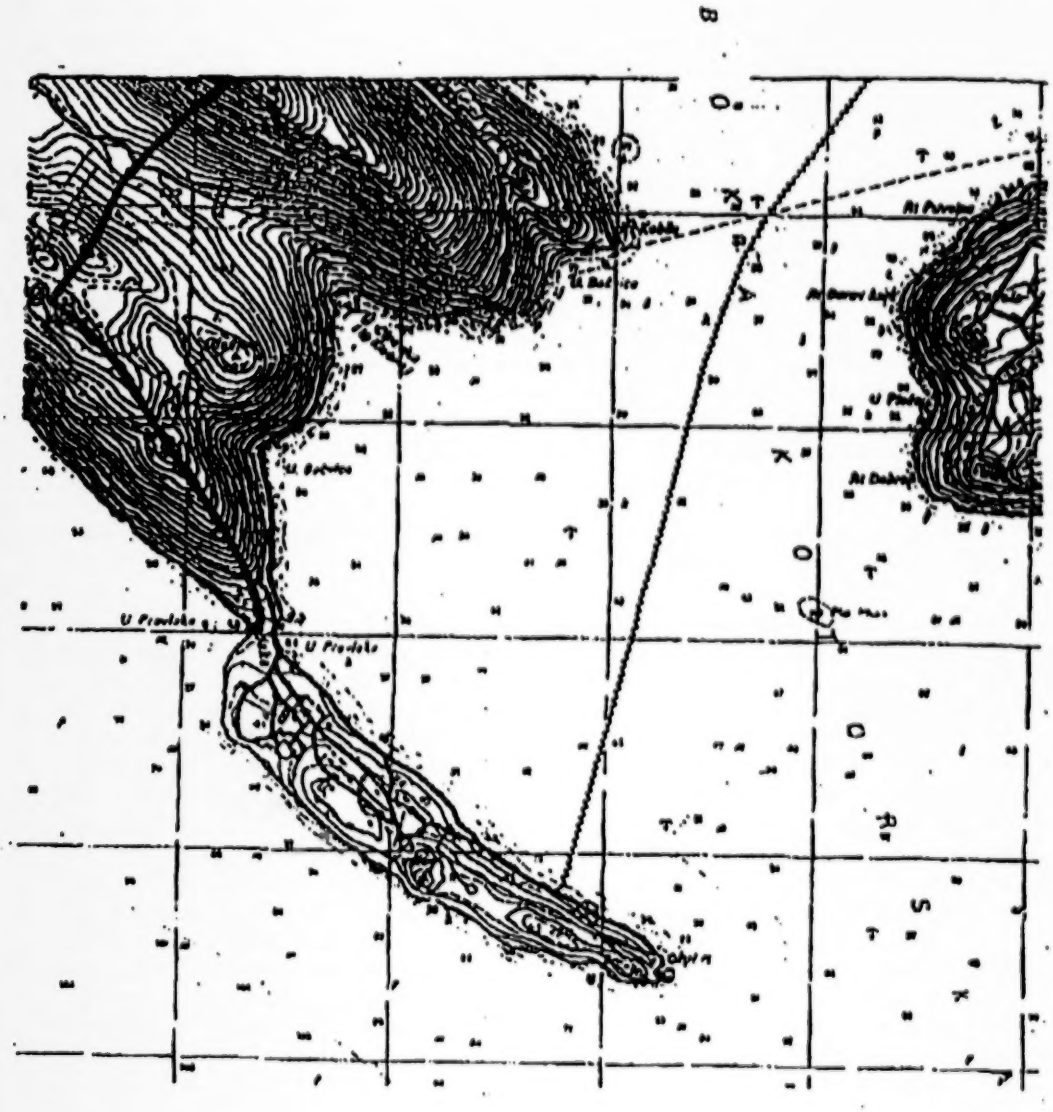
e) Analogous provisions are contained in the Law on the Safety of Navigation at Sea and in the Internal Waters of the Socialist Republic of Croatia. Article 1 of the Law says: "The safety of navigation at sea and in the internal waters of the Socialist Federal Republic of Yugoslavia within the borders of the Socialist Republic of Croatia is regulated by the Law on Maritime and Internal Navigations and by this Law." (People's Gazette, No. 40/ 1978). The provisions of this Law show quite clearly that it was not applied to the areas in Boka Kotorska Bay.

By the said Law the two Republics reached an agreement on mutual borders.

10. There existed in the former Socialist Federal Republic of Yugoslavia Republican enterprises for power distribution and for PTT traffic, organized on the territorial principle, i.e they organized their activities in the territory of a Republic, a member of the Federation. So, the PTT of Montenegro operated in the territory of the Socialist Republic of Montenegro and the PTT of Croatia in the territory of the Socialist Republic of Croatia, i.e the "Elektrodistribucija" of Montenegro in the territory of the Socialist Republic of Montenegro and the "Elektrodistribucija" of Croatia in the territory of the Socialist Republic of Croatia. There exist in the disputed territory of Prevlaka telephone installations which are part of the PTT of Montenegro, as well as electrical installations which are part of the "Elektrodistribucija" of Montenegro. This proves that the disputed territory was part of the territory of Montenegro.

11. The said facts, documents and argumentation prove that Boka Kotorska Bay, including the peninsula of Prevlaka as its integral part, together with communications and installations linking it to the land mass of Montenegro, are a constituent part of the Federal Republic of Yugoslavia.

Proceeding from the afore-mentioned documents, the Yugoslav side considers that the inter-State border in the area of Prevlaka extends as per the following graph:



The inter-State border between the Federal Republic of Yugoslavia and the Republic of Croatia in the area of Prevlaka

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